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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,752	07/22/2003	Leonard M. Walsh	EH-10667	6482
30188	7590	10/19/2005		
PRATT & WHITNEY 400 MAIN STREET MAIL STOP: 132-13 EAST HARTFORD, CT 06108			EXAMINER SMITH, SCOTT A	
			ART UNIT 3721	PAPER NUMBER

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,752

Applicant(s)

WALSH, LEONARD M.

Examiner

Scott A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9, 11-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 8, 9, 11-15, and 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 8 now recites that the handle is movable from a first position in proximity to a first end, and a second position in proximity to a second end of the slider **when the slider strikes the stop**. The specification fails to disclose that the handle is proximal to a first and second specifically during operation, especially **when the slider strikes the stop**. The specification merely states that the handle rotates along a path R during use. Regarding claims 14 and 20, there is not disclosure that the handle moves in a direction parallel to the sleeve axis. The handle moves in an arcuate path R.

Claims 8, 9, 11-15, and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 is confusing since it cannot be clearly understood how the handle moves from the first to the second position **when the slider strikes the stop**. During such an impact, it would appear that the handle would only have minimal movement, certainly not of the claimed range; i.e. from the first to the second position. Claims 14 and 20

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appear to be inaccurate in that the handle movement is arcuate, not parallel, as claimed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 8, 11, 12, 14, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al.

Hull et al. discloses the invention as claimed including a shaft 18, striking surfaces 20, a slider 22 having first and second ends, or “sides”, as broadly claimed, and a handle on the slider including a pair of legs 34 connected to ends, or “sides” and a central gripping portion 36 extending between and joined to the legs 34 movably attached to the slider and located a distance away from the slider such that a user can grasp the handle with the wrist in a “normal” position, as broadly claimed, and the handle being isolated from impact stresses and movable between proximal and distal position relative to an axis of the shaft.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 9, 13, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hull et al. in view of Baker or Matsumoto et al.

Hull et al. lacks the rotatable handle, as claimed. Baker and Matsumoto et al. each disclose an impact tool comprising a handle including leg portions and a gripping portion rotatable relative to a body or slider during tool impact, wherein the gripping portion is transverse to a longitudinal axis of the body or slider. In view of the teachings of Baker or Matsumoto et al., it would have been obvious to one skilled in the art to provide Hull et al. with a movable handle which rotates and is oriented as claimed in order to allow for an alternative handle grasping orientation, and since to do provides no new and unexpected results.

Claims 8, 9, and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloud in view of Baker or Matsumoto et al.

Cloud discloses the invention substantially as claimed including a shaft 110, striking surfaces 112, 114, a slider 118, and a handle 122 movably attached to the slider, wherein the handle has a gripping portion located a distance away from the slider such that a user can grasp the handle with the wrist in a "normal" position, as broadly claimed, and the handle being isolated from impact stresses and movable between proximal and distal position relative to an axis of the shaft.

Cloud lacks the rotatable handle, as claimed. Baker and Matsumoto et al. each disclose an impact tool comprising a handle including leg portions and a gripping portion rotatable relative to a body or slider during tool impact, wherein the gripping portion is transverse to a longitudinal axis of the body or slider. In view of the teachings of Baker

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or Matsumoto et al., it would have been obvious to one skilled in the art to provide Cloud with a movable handle which rotates and is oriented as claimed in order to allow for an alternative handle grasping orientation, and since to do provides no new and unexpected results.

Response to Arguments

Applicant's arguments filed on 8/1/05 have been fully considered but they are not persuasive. Regarding the rejection under 112(1st paragraph), applicant argues that the figures show that the handle moves relative to the slider between first and second positions. The Examiner agrees. However, the claim is rejected since it recites that this movement occurs "when the slider strikes the stop". This relationship is not disclosed; i.e. at the moment when the slider strikes the stop, the handle would not move between such positions. Further, the handle makes no "parallel" movement, as claimed, but rather an arcuate movement. Regarding Hull et al., the reference has been interpreted broadly such that the leg portions 34 are attached to opposite ends of the slider, and these "ends" can be interpreted to be at first and second "sides".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Smith whose telephone number is 571-272-4469. The examiner can normally be reached on 5:30-4:00 Tues.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith



SCOTT A. SMITH
PRIMARY EXAMINER